Broward County Bar Association

Recognizes 100% Membership Club

**For firms with 5 attorneys or more**

Abramowitz, Pomerantz, & Morehead, P.A.
Billing, Cochran, Lyles, Mauro & Ramsey, P.A.
Brinkley Morgan
Broad & Cassel
Buchanan Ingersoll & Rooney PC
Bunnell & Woulfe, P.A.
Burr & Forman LLP
Catri, Holton, Kessler & Kessler P.A.
Chimpoulis, Hunter & Lynn, P.A.
Coast to Coast Legal Aid of South Florida
Cole, Scott, and Kissane
Colodny Fass
Conrad & Sherer, LLP
Cooney Trybus Kwavnick Peets, PLC
Doumar, Allsworth, Laystrom, Voigt, Wachs & Adair, LLP
Ferencik, Libanoff, Brandt, Bustamante, & Goldstein, P.A.
Fowler, White, Burnett, P.A.
Gladstone & Weissman, P.A.
Goldstein Law Group
Gray Robinson, P.A.
Haliczer, Pettis & Schwamm, P.A.
Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.
Keller Landsberg PA
Kelley Uustal
Kim Vaughan Lerner LLP
Kirschbaum, Birnbaum, Lippman & Gregoire, PLLC
Lawcraft
Law Firm of Gary M. Singer, P.A.
Law Offices of Sheldon J. Schlesinger, P.A.
Legal Aid Service of Broward County
MacLean & Ema
May, Meacham & Davell, PA.
McIntosh, Sawran & Cartaya, P.A.
Moraitis, Cofar, Karney & Moraitis
Rogers, Morris & Ziegler, LLP
Roig Lawyers
Schlesinger Law Offices, P.A.
Walton, Lantaff, Schroeder & Carson, LLP
Wicker, Smith, O’Hara, McCoy and Ford, P.A.

Arthur H. Rice
Chad P. Pugatch  |  Kenneth B. Robinson

Craig A. Pugatch
Ronald J. Cohen  |  Richard B. Storfer
Ronald J. Lewittes

George L. Zinkler III
Riley W. Cirulnick  |  Brent J. Chudachek
Christian Savio  |  Richelle B. Levy

- Lender/ Creditor Rights
- Bankruptcy & Insolvency
- Commercial Foreclosure Litigation
- Business Litigation
- Asset Recovery
- Labor Relations
- Employee Benefits
- Civil Rights Defense
- Employment Litigation
- Discrimination Litigation
- Employment Contracts
- Arbitration, Trial, and Appellate Practice

101 N.E. Third Avenue, Suite 1800,
Ft. Lauderdale, FL 33301
954-462-8000  305-379-3121
www.rprslaw.com
United We Stand...
For the Accused
All Courts, All Charges, All Day Long

Over 100 Combined
Years Experience

Attorney
John Musca
Selected 'Super Lawyer' "12
16 Year Veteran
Defense Attorney

Attorney
Greg Messore
17 Year Veteran
Criminal Defense
Attorney

MUSCA LAW
277-5297
2200 Martin Luther King Blvd.
Fort Myers, FL 33901
LoveLaw
&
inside this issue

Letter from the President
Robin S. Moselle

Young Lawyers’ Section
Letter from the President
Jeffrey M. Wank

Diamonds are Forever...
Maybe
Shari Scalone

I Love My Job
Melisa Malone

The Language of Love
Shari Scalone

2016 Workers’ Compensation
Mary Beth Ricke

TECH-nicality
Andy Sokol

Recent Developments In
The Law
Nancy Little Hoffman

Calendar of Events
In Remembrance

The close of 2015 brought with it the passing of three Broward County attorneys, each who epitomized the very best in our legal profession. I had the honor of knowing these three notable individuals, and each contributed to the Broward County Bar Association in their own unique way.

On December 2, Sheldon “Shelly” Schlesinger, referred to as “The Dean of Broward Civil Litigators” by the Miami Herald, passed away at the age of 85. Named one of the most powerful personal injury attorneys in the county, Shelly assisted innumerable individuals when they were wrongfully injured, and his legal accomplishments included being a part of the landmark legal team that successfully defeated the tobacco industry on behalf of the citizens of Florida. His office building, located just down the street from the Broward County Bar Association, stands out as prominently as Shelly did. I had the honor of sitting with Shelly on the Board of Governors for Nova Southeastern University Shepard Broward College of Law. When Shelly spoke, the room became silent, and everyone listened to his words with rapt silence. In addition to being the embodiment of the best in the legal profession, Shelly’s philanthropy was far reaching. He was a long time member of the Broward County Bar Association, and was always available with his time, funding, or resources when asked to contribute to a BCBA cause or event.

The Broward County legal community suffered another loss when Bruno DiGiulian passed away on December 6. As accomplished and renowned as he was as a family law attorney, Bruno was perhaps better known as a mentor to those in the legal community, always giving of his time and advice. In addition to serving as president of the Broward County Bar Association in 1971, Bruno was the recipient of the Lynn Futch Professionalism in Practice Award in 2000, and until very recently, remained active on the BCBA Bench & Bar Committee. Bruno would always arrive at the meetings with a smile on his face and regale the committee with stories in a humorous fashion.

The end of the year also saw the passing of James “Jim” Cobb, Jr. Jim began his legal career as a prosecutor in the Miami Dade State Attorney’s Office before joining the Office of Statewide Prosecution in the Florida Attorney General’s Office, serving under four different administrations. Jim was the recipient of many accolades from victims of crime, and the both the Federal and State law enforcement community. Jim was active in the Broward County Bar Association, and we served on the Board of Directors together for a few years. Jim helped form the BCBA Professionalism Committee, believing that attorneys should be held to a higher standard of professionalism, integrity and competence. Through his work on the Professionalism Committee Jim was able to instill these qualities in the newly minted attorneys joining the profession.

Psychologist and philosopher William James said, “The greatest use of life is to spend it for something that will outlast it.” It is unquestionable that Shelly, Bruno and Jim will be missed, and each lived a life whose legacy will live on.

Robin S. Moselle
2015 - 2016 BCBA Officers
Robin S. Moselle - President
Charles A. Morehead III - President Elect
Thomas D. Oates - Treasurer
Edwina V. Kessler - Secretary
John G. Jordan - Past President

BOARD OF DIRECTORS
NORTHEAST
Michael I. Kean
M. Ross Shulmister
Jerome R. Siegel
NORTHWEST
Evan M. Ostfeld
WEST
Donald E. Fucik
Gary M. Singer
Russell Miller Thompson
CENTRAL
Jamie Finizio Bascombe
William R. Clayton
Michael A. Fischler
Jose Izquierdo
Michael D. Leader
Alison F. Smith
Robert C.L. Vaughan
SOUTHEAST
Michael A. Rajtar
Jeffrey Solomon
Laura Varela
SOUTHWEST
Kimberly A. Gilmour

JUDICIAL REPRESENTATIVE
The Honorable Martin J. Bidwill

EXECUTIVE DIRECTOR
Braulio N. Rosa

Broward County Bar Association
1051 SE 3rd Avenue
Fort Lauderdale, FL 33316
954.764.8040
We are pleased to announce that Raymond Robin has been named Managing Shareholder. Alan Landsberg has retired but remains “Of Counsel”. Congratulations to them both!
letter from the young lawyers’ president

Social Media Pitfalls

As young lawyers, we are all plugged-in. In fact, most “seasoned” lawyers are also connected and in tune with current social media sites. Facebook, LinkedIn, and Twitter are some of the popular social media outlets that most lawyers are familiar with, and likely use on a daily basis. Naturally, one can see the benefit and upside to having a social media presence. For starters, it provides more visibility, name recognition and an alternative way to interact with potential clients and your network. There are even specific groups designed to refer cases. Thus, social media can be a huge benefit to one’s practice and a cost-effective way to increase business.

But what happens when social media is used for other purposes? Recently I have seen an onslaught of political posts and rather unprofessional remarks (mostly on Facebook and Twitter). These outcries and other comments may reflect negatively on the writer by those who read it. More importantly, for business, networking or professional purposes, certain posts may deter others in your network who wanted to engage in future business ventures together, or could affect a potential position with a firm or other company down the road.

Once that send button is pressed, there is no turning back. We often see news stories on a weekly basis of some athlete, entertainer or politician who deleted a controversial post or tweet minutes after posting, only to draw more attention to the “mistake” they likely did not think through. Same can be said about each of us in our everyday lives. Once it is out there, it is out there for all the world to see. And to the extent the post or tweet may offend someone, you should be aware of the potential harm your message may cause. It is difficult to imagine that an online forum could result in damaging one’s reputation, especially if made casually or in jest, but believe you me, people take note of certain messages. In fact, in recent years, there have been instances where attorneys have been fired for their posts on social media, and have been disciplined by the Florida Bar.

In closing, be aware of your social media presence, and the impact (both positive and negative) certain posts, tweets, or messages may have on your profile. As lawyers, our reputation can make or break us. Once that reputation is tarnished, it may be very hard, if not impossible, to rebound. So be sure to take an extra minute or two, or even consult with a friend or colleague, before posting on social media sites if you think your comment may be controversial. Some attorneys even have separate personal social media accounts. At the very least, be aware of what you are posting and remember that some things are better left in 0 characters or less.
At Bienenfeld, Lasek & Starr LLC, we believe in the right team of people, a strong commitment to help others, and having a real impact. That is the mission of our practice and the “helping hand” we offer to our community.

It’s also the reason we are proud to support the Broward County Bar Association.

We are honored to be involved with an organization with a strong dedication to its members and a solid commitment to raising the “bar” in the legal community.
There is a long-standing history of presenting an engagement ring as a token of one’s devotion and in contemplation of marriage. However, the symbol of eternal love may not culminate in nuptials; as such, the principles of contract law have been used to determine which party gets to keep the engagement ring.

There are two schools of thought with regard to entitlement to a ring in the case of a broken engagement. The majority rule, including Florida, considers fault. Under this theory, the party who is at fault should be denied the ring, either the donor or the donee, unless there was an agreement that the ring would be returned upon termination of the engagement. Where the engagement is expressly terminated by the mutual consent of the parties, the general view is that the donor may obtain recovery. In this way, the cancellation by mutual consent essentially abrogates the condition upon which the ring was held. By contrast, under the minority rule, fault does not matter; the gift of an engagement ring is a conditional gift and, where the condition fails, the ring should be returned to the donor.

The Florida court in Gill v. Shively, 320 So.2d 415 (Fla. 4th DCA 1975), stated that the donor of the engagement ring may recover the ring if the engagement is terminated by the donee or by mutual consent of the parties. The appellant/donor gave the appellee/donee a diamond engagement ring worth approximately $3,620.42. Id. at 416. Two weeks later, the appellee said she did not feel she was ready for marriage. Id. The appellant brought a replevin action for return of the ring, but his complaint was dismissed. The court of appeal reversed, holding that the ring was not an absolute gift but was conditioned on the consummation of the marriage. The condition failed. Thus, appellant had a valid cause of action.

In sum, based on the law in Florida, the donor would be entitled to the recovery of an engagement ring when either the donee or both parties mutually decided to terminate the engagement. However, there appears to be no such claim to recover the ring when it is the donor who breaks off the engagement. It is important to note that each case is fact specific in determining fault. There are numerous circumstances that exist that may militate against a particular result, i.e. the donee had been unfaithful or had done some other bad act that would result in inequity. Another circumstance which may sway the court pertains to cases where the ring is a family heirloom. In such a case, the court might be moved by principles of equity to award the ring to the donor who can show sentimental value attached to the ring. All the same, the courts, in view of legal principles taking precedence over equitable principles, are still likely to award the donee the engagement ring where the elements of gifting have been fulfilled.

In conclusion, the courts view the giving of a ring in contemplation of marriage as a conditional gift. Because engagement rings hold a great deal of sentimental and monetary value, the issue of ownership of the engagement ring has become intensely litigated.
During a recent employee recognition event, Legal Aid Service of Broward County (LAS) and Coast to Coast Legal Aid of South Florida (CCLA) celebrated milestone employment anniversaries for eleven employees. This annual event, held each December, highlights the dedication that employees have for the organizations and for the clients they serve. Here is a listing of their years of service plus what a few of them had to say.

5 Years: Berbeth Foster, Esq. (Attorney, Senior Law Unit, CCLA)

10 Years:
• Marilyn Bach-Nunez (Grant Specialist, LAS)
• Marta Estevez, Esq. (Attorney, Family Law Unit, CCLA)
• Yasmin Jacob, Esq. (Supervising Attorney, Immigration Unit, LAS)
• Aven Morrison (Social Worker, LAS)
• Heidi Vainio (Administrative Assistant, CCLA)

20 Years:
• Maria Gonzalez (B02roward Lawyers Care Paralegal, LAS)
• Michele Moyel (Paralegal, Senior Law Unit, CCLA)

25 Years:
• Elvira Sears (Paralegal, Family Law Unit, CCLA)
• Cindy Woodward, Esq. (Attorney, Family Law Unit, CCLA)

30 Years: Lisa Goldberg, Esq. (Supervising Attorney, Family Law Unit, CCLA)

40 Years: Tony Karrat, Esq. (Executive Director, LAS)

Marta Estevez, Esq.
“I was immediately drawn to this position as a new law school graduate because I knew I would be helping people directly. Little did I know when I interviewed, in the dark, three days post Hurricane Wilma, I would still be here, ten years later, loving my job. I have seen the true definition of survival from my clients. I am blessed to wake up every morning and come to work with amazing colleagues who share the same enthusiasm and love for our clients.”

Marilyn Bach-Nunez
“Every day I get up and go to work knowing that Legal Aid is making a difference in the lives of our society’s most vulnerable citizens, continuing to fight for access to justice for the poor. This is one of the many reasons why I continue to work for and believe in Legal Aid.”

Cindy Woodward, Esq.
“I started working at Legal Aid as a temporary employee while another attorney went on maternity leave, and here I am 25 years later. I love my job because it enables me to help victims of domestic violence at probably the worst time of their lives. After their divorce is finalized, I hear from those same clients about how well they and their children are doing, and how well their lives have turned out. While I will never be rich in monetary terms, I am rich in a deeper sense, as I love my job and the people I work with. How many people can say that?”

Lisa G. Goldberg, Esq.
“Both of my parents grew up in large families whose incomes, in today’s language, fell within Federal Poverty Guidelines. They never forgot their heritage, and impressed upon us the importance of helping those less fortunate. I believe that each of us was placed on this earth with a purpose. In meeting so many deserving and appreciative clients over my 30+ years as a legal aid attorney, I am confident that mine is to help these folks navigate the frightening reality of leaving a domestic violence situation. Their transformation from our first meeting to the final hearing is so heartening. Being a legal aid attorney is a commitment that my entire family has made to this community.”

Both LAS and CCLA were designated 2015 Sun Sentinel Top Workplaces.
Try the Jaguar F-PACE
coming Q2 2016 • Starting at $40,990
Call for details.

A hundred hearts would be too few
To carry all my love for you.

~Author Unknown

Try the Jaguar F-PACE
coming Q2 2016 • Starting at $40,990
Call for details.

Damian Polgar call today for details
o: 954.202.8349
c: 954.609.6621
dpolgar@alpinejaguar.com

ALPINE JAGUAR
6606 North Andrews Avenue
Fort Lauderdale, Florida 33309
954.598.7900
www.AlpineJaguar.com
Your Expert Dispute Resolution Firm

Coming to Broward April 2016

• Rodney Romano • Ronald Alvarez • Theodore Deckert
• Gary Dickstein • Stephen Fischer • Frederick Hazouri
• Patrick Massa • Amber McMichael • James Munsey
• Kevin O’Brien • Robert Ponzan • Patti Velasquez
  • Richard Wenne • Louis Williams

• Convenient On-Line Scheduling
• No Cancellation Fees
• After Hours Mediation
• Black Box Mediations

Hillsboro • West Palm Beach • Stuart

(561) 340-3500 • (800)379-2580

www.matrixmediation.com
The Language of Love

by Shari Scalone

Lawyers are trained in the art of persuasion and legal discourse, but this skill set may not directly overlap when communicating effectively with a significant other. What is a lawyer to do as Valentine’s Day approaches? Luckily, one can get into the spirit of love by reviewing the key concepts described by Gary Chapman, The Five Love Languages: How to Express Heartfelt Commitment to Your Mate (1995). Chapman begins by explaining that everyone speaks his or her own “love language,” the primary method of giving and receiving love. He points out 5 different categories or methods of communicating and expressing love: words of affirmation, acts of service, affection, quality time, and gifts.

1. **Words of Affirmation** - Spoken kindness, verbal expression, and openness fall under this love language.

2. **Acts of Service** - This love language summarizes the saying “Actions speak louder than words.” By relieving a burden or helping with a task, one can communicate appreciation and love.

3. **Affection** - Physical touch and intimacy comprise this love language.

4. **Quality Time** - This is a primary love language for those who prefer being together with their partner while fully present in the moment.

5. **Gifts** - Taking the time to give a gift can make one’s partner feel appreciated.

Understanding one’s partner’s love language and acting accordingly will fill his or her “Love Tank.” The “Love Tank” analogy is a great metaphor for describing how loved one feels. In the alternative, leaving the “Love Tank” on empty will likely lead to relationship issues. Interestingly, Chapman describes that most couples do not speak the same love language, thereby making the vast majority of relationships all the more challenging.

In addition, Chapman suggests that to discover a love language, one must (1) observe the way she expresses love to others, (2) analyze what she complains about most often, and (3) perceive what she requests from her significant other. People tend to naturally give love in the way that they prefer to receive love. Chapman suggests that peoples’ love languages do not change over time, but instead develop and need to be nurtured in different ways. For those interested in identifying their primary love language, please visit http://www.5lovelanguages.com.

Chapman’s concepts serve as a useful tool in forming and maintaining a stable, loving relationship. There is significant evidence that people who participate in satisfying, long-term relationships fare better on a whole variety of measures. Such benefits include fewer doctor’s visits and colds, faster healing, less depression and substance abuse, lower blood pressure, less anxiety, better stress management, and longer life.

As attorneys, it is important to separate the stress of work from bleeding into our relationships. Practicing mindfulness, paying attention to each moment, and committing to acceptance will help prevent our work lives from negatively impacting our love lives. By keeping in mind that our loved ones are not part of the adversarial process, but rather our support system, we can strengthen and nurture our closest relationships.

Shari Scalone is a Family Law attorney with The Law Offices of Daniel S. Rakofsky, P.A. She can be reached at shari@rakofskylaw.com or 954-745-0792. For more information visit www.rakofskylaw.com.
Mark your calendars for an exciting and informative conference hosted by the Broward County Bar Association Workers’ Compensation Section! On Friday, February 26, 2016, the Section is presenting the 2016 Workers’ Compensation Section Conference and Reception: Shaping the Future at the Riverside Hotel in downtown Fort Lauderdale. The conference offers an afternoon of 4.5 General CLE credits and networking, including lunch and a cocktail reception.

The conference begins with lunch at 11:30 a.m. and then transitions to informative discussions on various topics in the workers’ compensation arena. These discussions covered during the conference include: Legislative Update: Workers’ Compensation Legislative Update for 2016; Major Contributing Cause: Causation in 2016; and Case Law Update, Emerging Trends from the 1st DCA. The final discussion offered is a question and answer session with Broward County Judges of Compensation Claims. These Broward County Judges of Compensation Claims will provide valuable insight into the practice of the workers’ compensation area of the law, so be sure to come prepared with questions and topics for discussion. A cocktail reception for networking and socializing with your fellow workers’ compensation attorneys concludes the conference.

For more information on the 2016 Workers’ Compensation Conference, please contact Lauren Riegler, the Broward County Bar Association Event and CLE Coordinator, at lauren@browardbar.org or 954-832-3618. You may register for the conference on the Broward County Bar Association website www.browardbar.org. Sponsorships are also available. We hope to see you there!

Mary Beth Ricke is an associate attorney with Buchanan Ingersoll & Rooney PC and focuses her practice on labor and employment law. She can be reached at marybeth.ricke@bipc.com or by calling (954)703-3651.

2016 Workers’ Compensation Conference

by Mary Beth Ricke

By Mary Beth Ricke

Broward County Bar Association

2016 Judicial Robing Ceremony

For the Seventeenth Judicial Circuit In
and For Broward County, Florida

COUNTY COURT JUDGES
Nina W. Di Pietro
Stephen J. Zaccor
- and -
Governor Rick Scott’s Judicial Appointed Judges*
*Pending Gubernatorial Appointment

The Honorable Chief Judge Peter M. Weinstein Presiding

Join us after the ceremony
for our Dessert and Coffee Reception!

RSVP at www.browardbar.org/calendar
My fellow Broward lawyers:

The 17th Circuit needs a strong leader on the Board of Governors who understands our legal community and has demonstrated the dedication necessary to represent our interests. For the past 30 years, I have been a part of and served our legal profession.

I have made Bar work my business and have served on working committees that do real work for you. I came out swinging when the "Vision 2016" committee proposed "reciprocity" for lawyers from every state in the union without forcing them to prove competency in Florida law. It was the wrong thing to do, was improperly vetted, and nearsighted. I pledge to continue in a watchdog role for all Broward lawyers.

A South Florida native, I have represented Plaintiffs and Defendants in my career, with an emphasis on trial practice. My practice includes commercial work, professional malpractice and diverse personal injury.

My past Bar work and accomplishments include:

- Board Certified Civil Trial Lawyer, currently in my second term as a member of the Florida Bar Board Certification Committee.
- President-elect (2016), Secretary, Treasurer, and Board member of the Broward County Bar Association since 2006; Past Chair of the Trial Lawyers section, past Chair of the Bench & Bar Committee for three terms.
- President (2016), Vice President, Secretary and Treasurer and member of The American Board of Trial Advocates, Fort Lauderdale Chapter.
- Twice Florida Bar 17th Circuit Grievance Committee Chair, and member.
- Two term Member of the Florida Bar Code and Rules of Evidence Committee.

Rest assured my independence and fair consideration of the issues will be paramount. It would be my privilege to represent my fellow Broward lawyers with strong leadership, based on fairness and common sense, on the Florida Bar Board of Governors.

Respectfully,
Charles A. Morehead III

Advertisement paid for by Charles A. Morehead III.
This article is part two of the May 2015 Barrister article titled “E-Discovery as an Efficient Tool.” This series focuses on use of the latest legal technology to solve problems law firms face.

Over the last several years, the landscape of the legal industry has dramatically changed. In looking to cut costs in a turbulent economy, clients are now challenging the traditional law firm business model. Meanwhile, law firms’ costs are increasing.

PROBLEM #2 - Competition Amongst Law Firms and Lawyers Is Increasing, Driving Down Billable Rates and Fees.

The traditional law firm business model of providing legal services on an hourly basis is in trouble. It is only working well for some firms.

Larger law firms offer “one-stop shopping,” whereby lawyers cross-refer their clients to other lawyers in different departments of the firm to generate additional business. However, often the practice is not the best answer for clients looking for the most qualified lawyer in other areas of law. Today, people can search the internet and find lawyers who are top experts in their fields. Clients no longer need to depend on lawyers for referrals.

Many law firms are merely selling on price by reducing their billable hour rates, instead of pushing towards efficiency and driving their value up.

Rainmakers at some big law firms are venturing out on their own to cut costs for their clients. They are also lowering their fees to keep their clients happy.

There are more lawyers graduating law school every year than there are jobs for them. Many graduates have a high debt burden from law school and are willing to take any law firm job, at any salary, just to enter the workforce.

The solution is simple: embrace technology as a tool to help provide a better service to clients. Lawyers want to do high-end legal work, bill by the hour for their time, and meet clients’ deadlines.

By leveraging the right tools, lawyers can provide higher quality work in less time. Tools that improve efficiency will reduce their workload and their resultant stress. This will lead to a higher standard of service and generate more referrals.

Reducing overhead expenses enables a firm to compete with law firms that are dropping their hourly rates to steal clients. Being efficient enables the law firm to increase revenue by taking on and handling more cases and more clients, without having to hire more people or more contract attorneys for review. Being efficient enables a higher profit while also passing savings along to the client. It is a win-win situation that enables the firm to stay competitive.

Andy Sokol, CEDS, is the CEO and Founder of CopyScan in Fort Lauderdale. CopyScan is a full-service document management company with highly optimized services including Electronic Discovery, Legal Copying and Scanning, Trial Graphic Design and Trial Exhibits. For more information, call (954) 463-9394.
At Florida Power & Light Company we are working together with the communities we serve to make Florida an even better place to raise a family and do business.

#FPLCares

Broward County Bar Association Barrister
U.S. SUPREME COURT STRIKES DOWN FLORIDA’S CAPITAL SENTENCING SCHEME.

In an opinion authored by Justice Sotomayor, the U. S. Supreme Court held that Florida’s statutory sentencing scheme violates the Sixth Amendment’s right to a trial by an impartial jury, in light of its 2002 opinion in Ring v. Arizona. As did Arizona’s, the Florida statute provides that a judge and not the jury makes the critical findings necessary to impose the death penalty. In this case, the maximum punishment the defendant could receive as a result of the jury’s verdict was life without parole. Because that punishment was increased by the judge’s independent finding of aggravating circumstances, it violated his right to a jury trial. The Court found that the statute’s provision for an advisory recommendation by the jury did not satisfy the Sixth Amendment.

Justice Breyer disagreed but concurred in the result, based on his view that the Eighth Amendment requires that the jury, and not a judge, impose the sentence of death. Justice Alito dissented because of the Supreme Court’s prior opinions upholding the Florida procedure, and because he believed that if there were constitutional error, it was harmless. Hurst v. Florida, Case No. 14-7505 (January 12, 2016).

FLORIDA SUPREME COURT AMENDS FORECLOSURE RULES.

In 2013 the Florida Legislature adopted legislation amending pleading requirements for mortgage foreclosure complaints to expedite the process. It requested that the Court amend the procedural rules in conformity with the act. Accordingly, the Court has adopted new rule 1.115, which governs pleading requirements, as well as amending several forms and adopting new forms for use in the expedited proceedings. These amendments are effective immediately. In re: Amendments to the Florida Rules of Civil Procedure, Case No. SC13-2384 (Fla. January 14, 2016).

EVIDENCE OF AVAILABILITY OF LOW-COST CARE TO BRAIN-INJURED CHILD INADMISSIBLE; STATUTORY CAP ON NONECONOMIC DAMAGES UNCONSTITUTIONAL.

Upholding a substantial verdict, the Fourth District held that the trial court correctly refused to admit evidence that the child who suffered brain damage as a result of the defendant’s medical malpractice could receive care paid by Medicaid. On cross-appeal, it reversed the trial court’s reduction of the noneconomic damages awarded by the jury, based on unconstitutionality of the statutory cap on such damages. Go v. Normil, 41 Fla. L. Weekly D91 (Fla. 4th DCA January 6, 2016).

FOURTH DISTRICT: DEFAMATION PER SE STILL EXISTS IN FLORIDA IN CASES NOT INVOLVING MEDIA DEFENDANTS.

After their attorney-client relationship broke down, the client in a dissolution of marriage proceeding posted derogatory reviews of the attorney on the internet. The attorney successfully sued her former client for libel as well as on other theories. On appeal, the Fourth District rejected arguments that the statements were protected by the First Amendment as “pure opinion,” since they contained false information. Moreover, the court held, proof of damage and malice is required only as to media defendants; defamation per se still exists as to other types of defendants. Blake v. Giustibelli, 41 Fla. L. Weekly D122 (Fla. 4th DCA January 6, 2016).

Nancy Little Hoffmann
is a Board-Certified
Appellate Lawyer
practicing in the Fort
Lauderdale area since
1974. She may be
contacted at 954-771-
0606 or by e-mail at
NLHappeals@aol.com.
SNAKE EYES OR LUCKY SEVEN?

DON'T GAMBLE. HIRE EXPERIENCED CO-COUNSEL.
February

2 Young Lawyers’ Boot Camp Series – Session 1
Time: 5:30 p.m. – 7:00 p.m.
Venue: BCBA Conference Center
Cost: $60 BCBA Members Series ($15 Session 1 only); $100 Non-Member Series ($25 Session 1 only)

4 Paralegal CLE: Insight from a JA Panel
Sponsored by: DLE Process Servers
Time: 5:30 p.m. – 7:00 p.m.
Venue: BCBA Conference Center
Cost: $10 BCBA Member; $20 Non-Member

9 North Broward Luncheon
Time: 12:00 p.m. – 1:30 p.m.
Venue: Isabella’s Italian Restaurant (Pompano Beach)
Cost: $20 BCBA Member; $25 Non-Member

12 Appellate CLE: Demystify 11th Circuit Appellate Practice
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: $15 BCBA Member; $25 Non-Member

17 Bankruptcy CLE: Post-Bankruptcy Issues for Debtors
Sponsored by: Van Horn Law Group, PA.
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: Free BCBA Bankruptcy Section; $15 BCBA Member; $25 Non-member

18 Construction CLE Luncheon
Sponsored by: Thornton Tomasetti, Inc.
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: Free BCBA Construction Section; $15 BCBA Member; $25 Non-Member

19 2016 Judicial Robing Ceremony
Time: 1:00 p.m.
Venue: Broward County Courthouse – Jury Assembly Room
Cost: No Cost; Open to the Public (please register)
Sponsorships Available!

23 CLE: YouTube and Your Firm
Time: 12:00 p.m. – 1:30 p.m.
Venue: BCBA Conference Center
Cost: $15 BCBA Member; $25 Non-Member

25 West Broward Luncheon - Cybersecurity
Time: 12:00 p.m. – 1:30 p.m.
Venue: Lago Mar Country Club
Cost: $25 BCBA Member; $35 Non-Member; $10 extra for walk-ins

26 2016 Workers’ Compensation Conference and Reception
Time: 11:30 a.m. – 5:00 p.m.
Venue: Riverside Hotel on Las Olas
Cost: $85 BCBA Member; $100 Non-Member
Sponsorships Available!

Upcoming Special Events
March 30
Legislative Affairs Reception
Sponsorships Available!

April 7
Mercedes-Benz Corporate Run with BCBA
Time: 6:45 p.m.
Venue: Huizenga Plaza
Cost: $40; deadline to register is March 9.
Sponsorships Available!

April 8
2016 Raising the Bar (Family Law)
Time: 8:30 a.m. – 5:00 p.m.
Venue: Bahia Mar - Fort Lauderdale Beach
Cost: $125 BCBA Member; $150 Non-Member
Sponsorships Available!